Resolution of the County Board of Kankakee County, Illinois

RE: ZBA CASE #17-09; VARIANCE TO SECTION 121-281.B.2 (ACCESSORY STRUCTURE SETBACK) IN THE A1-AGRICULTURAL DISTRICT WITH A FARMSTEAD EXEMPTION (FE#17-14)

WHEREAS, an application pursuant to the terms of the Kankakee County Zoning Ordinance, has been filed by Ambrose & Shirlee Marcotte, property owners and applicants in the Office of the County Clerk of Kankakee County for a Variance to Section 121.281.b.2 (Accessory Structure Setback), in the A1-Agricultural District with a Farmstead Exemption (FE#17-14), on a parcel legally described herein Exhibit A, a copy of which is attached; and,

WHEREAS, the Zoning Board of Appeals held a duly noticed public hearing, on the application on December 18, 2017 and from the testimony and evidence presented findings were made as described in Exhibit B, a copy is attached and the ZBA recommends that the request of Ambrose & Shirlee Marcotte, property owners and applicants, be approved; and,

WHEREAS, the Planning, Zoning, and Agriculture Committee (PZA), at its regularly scheduled and duly noticed meeting of December 20, 2017, having reviewed, discussed and considered the matter, has approved the request and adopted the findings and recommendation of the Zoning Board of Appeals, Exhibit B; and,

WHEREAS, all matters required by law of the State of Illinois and the Zoning Ordinance of Kankakee County have been completed; and,

WHEREAS the County Board at its regularly scheduled meeting of January 9, 2018 after review, discussion, and consideration, agrees with the findings of the Zoning Board of Appeals and committee minutes of the PZA Committee, and finds that the conclusions expressed are both reasonable and rationally supported by the evidence presented, and the variance will not be detrimental to the public health, safety, and economic and general welfare.

NOW, THEREFORE, be it resolved by the Kankakee County Board, State of Illinois as follows:

1. The findings of the Zoning Board of Appeals are hereby approved, confirmed, ratified, and adopted and the conclusions of the Planning, Zoning and Agriculture Committee based upon those findings are rational and in the public interest.
2. The findings, conclusions and recommendation expressed in the minutes of the Planning, Zoning, and Agriculture Committee meeting of December 20, 2017 are also supported by the record and are in the public interest and are also approved, confirmed, ratified and adopted.

3. Variance to Section 121.281.b.2 (Accessory Structure Setback), in the A1-Agricultural District with a Farmstead Exemption (FE#17-14) be approved on a parcel legally described in Exhibit A, a copy of which is attached herein and made a part hereof.

PASSED and adopted this 9th day of January, 2018.

Andrew H. Wheeler, County Board Chairman

ATTEST:

Dan Hendrickson, County Clerk
LEGAL DESCRIPTION:

A PART OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 12, TOWNSHIP 32 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, KANKAKEE COUNTY, ILLINOIS, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF THE WEST HALF OF SAID NORTHEAST QUARTER OF THE SOUTHEAST QUARTER AND RUNNING: THENCE NORTH 88°38’49” EAST, ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER OF SECTION 12, 33.00 FEET (2 RODS), TO THE NORTHEAST CORNER OF THE WEST 2 RODS OF THE EAST HALF OF SAID NORTHEAST QUARTER OF THE SOUTHEAST QUARTER; THENCE SOUTH 01°38’16” EAST, ALONG THE EAST LINE OF SAID WEST 2 RODS, 758.49 FEET; THENCE SOUTH 88°38’49” WEST, PARALLEL WITH SAID NORTH LINE OF THE SOUTHEAST QUARTER, 33.00 FT (RODS), TO A POINT ON THE EAST LINE OF SAID WEST HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 12; THENCE CONTINUING SOUTH 88°38’48” WEST, PARALLEL WITH SAID NORTH LINE OF THE SOUTHEAST QUARTER 54.00 FEET; THENCE NORTH 01°38’16” WEST, PARALLEL WITH SAID EAST LINE OF THE WEST HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 12, 758.49 FEET, TO A POINT OF SAID NORTH LINE OF THE SOUTHEAST QUARTER OF SECTION 12; AND THENCE NORTH 88°38’49” EAST, ALONG SAID NORTH LINE, 254.00 FEET, TO THE POINT OF BEGINNING. CONTAINING 5.00 ACRES OF LAND MORE OR LESS.
EXHIBIT B (ZBA CASE#17-09)
Kankakee County Zoning Board of Appeals
Mr. John Fetherling, Chairman
Kankakee County Zoning Board of Appeals
189 East Court Street
Kankakee, IL 60901
(815) 937-2940

FINDINGS OF FACT AND RECOMMENDATION
OF THE KANKAKEE COUNTY ZONING BOARD OF APPEALS

This is the findings of fact and the recommendation of the Kankakee County Zoning Board of Appeals concerning an application from property owners and applicants, Ambrose and Shirlee Marcotte in ZBA Case No. 17-09. The applicants and owners are requesting a variance to Section 121-281.b.2 to permit an accessory structure (garage) to be closer to an interior lot line than the required 5'. The owners have applied for and received a farmstead exemption (FE17-14) but have an existing garage on the property which is only 3.2 feet from the eastern lot line. The variance would make the existing garage compliant with the ordinance and eligible for building permits.

After due notice required by law, the Zoning Board of Appeals held a public hearing on this case on December 18, 2017 in the County Board Room, 4th Floor, Kankakee County Administration Building, Kankakee, Illinois, and hereby report their findings of fact and their recommendation as follows:

Site Information: See Staff Report (attached herewith).

Public Comments: There were no objectors present. (Refer to transcripts)

Analysis of Four Standards: After considering all the evidence and testimony presented at the public hearing, the Board makes the following analysis of the four (4) standards listed in Section 17.03.G5 (Standards for Variances) of the Kankakee County Zoning Ordinance that must all be found in the affirmative prior to recommending granting of the petition.

1. That a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the letter of the regulations were to be carried out.

The Board finds that the request is a side setback variance for an existing garage. When this homestead was developed, the garage and other accessory farm structures were built around a circle drive behind the primary residence. The garage was located to provide maximum ingress and egress for farm machinery to the other sheds and structures. A particular hardship would result because locating the garage in conformance with the side setback would have hindered access to the other structures.

2. That the conditions for this request are unique to the property in question and would not apply, generally, to other property with the same zoning classification.
The Board finds that request is a side setback variance for an existing garage. This is unique because this was constructed too close to the property edge as part of a number of accessory farm structures around a circle drive behind the primary residence, and ingress and egress of farm machinery would be more difficult if the garage was in conformance with the side setback requirements.

3. That the granting of the variance would not be detrimental to the public welfare or injurious to the property or improvements in the neighborhood in which the property is located.

The Board finds that granting the variance would not be detrimental to the public welfare or the neighborhood. This neighborhood is an agricultural area, where most farmsteads have been separated from the acreage being tilled. This variance would allow for this homestead to be separated from the tilled acreage, just as the other properties in the neighborhood.

4. That the variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion of the public street, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the neighborhood.

The Board finds that the variance is an existing garage on an existing homestead, so that will not increase the congestion on the public street. As the other farmsteads in the area have been separated from the tilled acreage, it will not diminish or impair property values in the neighborhood. And the variance would in fact make it easier for public safety officials, fire and police, to gain access to the accessory structures in case of an emergency.

**Recommendation:** We find that the proposed variances does meet all the standards for recommending granting as found in Section 17.03.G5 of the Kankakee County Zoning Ordinance and that such request is in the public interest. Therefore, the Zoning Board of Appeals hereby recommends that the variance regarding accessory structure setback be granted on the above mentioned property for the accessory structure as described.

**Roll Call Vote:** The roll call vote was five (5) members for the motion to recommend approval, zero (0) opposed.
Respectfully submitted this 18th day of December, 2017 by the Kankakee County Zoning Board of Appeals.

John Fetherling, Chairman – Aye
Gene Rademacher – Aye
Edwin Meents – Aye
William Hemm-Absent
Elizabeth Scanlon – Aye
David DeYoung – Aye
William Sawyer - Absent

Exhibit A – Location Map, Yellowhead Township
ZBA CASE 17-09

STAFF REPORT

Ambrose & Shirlee Marcotte (Owners & Applicants)
Variance 121-281.b.2 (Accessory Structure Setback)
P.I. No. 01-04-12-400-009 (out of)
Yellowhead Township
The applicants and owners, Ambrose & Shirlee Marcotte are requesting a variance to Section 121-281.b.2 to permit an accessory structure (garage) to be closer to an interior lot line than the required 5'. The owners have applied for and received a farmstead exemption (FE17-14) but have an existing garage on the property which is only 3.2 feet from the eastern lot line. The variance would make the existing garage compliant with the ordinance and eligible for building permits.

An aerial photograph of the general area can be seen on the left.

Finding of Fact Responses - Variance

The following sections highlight the Petitioner's responses to the findings and the Planning Department's comments for the proposed variance:

A. Would a particular hardship to the owner result, as distinguished from a mere inconvenience, if the letter of the regulations were to be carried out, i.e., because of the particular existing use, physical surroundings, shape or topographical conditions of the property in question.

Petitioner's Response: "The request is a side setback variance for an existing garage. When this homestead was developed, the garage and other accessory farm structures were built around a circle drive behind the primary residence. The garage was located to provide maximum ingress and egress for farm machinery to the other sheds and structures. A particular hardship would result because locating the garage in conformance with the side setback would have hindered access to the other structures."

Planning Department Analysis:

The garage on the property has existed for a very long time, dating back to when the property existed as a farmstead.

B. How are the conditions for this request unique to the property in question that would not apply, generally, to other property with the same zoning classification?

Petitioner's Response: "The request is a side setback variance for an existing garage. This is unique because this was constructed too close to the property edge as part of a number of accessory farm structures around a circle drive behind the primary residence, and in ingress and egress of farm machinery would be more difficult if the garage was in conformance with the side setback requirements."

Kankakee County Planning Department
ZBA Case 17-09

Planning Department Analysis:

Staff feels that the request is unique due to the age of the structures and their previous use as a farmstead.

C. Will the granting of the variance be detrimental to the public welfare or injurious to the property or improvements in the neighborhood in which the property is located?

Petitioner's Response: "Granting the variance would not be detrimental to the public welfare or the neighborhood. This neighborhood is an agricultural area, where most farmsteads have been separated from the acreage being zoned. This variance would allow this homestead to be separated from the tilled acreage, just as the other properties in the neighborhood."

Planning Department Analysis:

Staff agrees, due to the age of the structure any detriment to the neighborhood or the public has already occurred.

D. Will the variance impair an adequate supply of light and air to adjacent property, substantially increase the congestion of the public street, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the neighborhood?

Petitioner's Response: "The variance is an existing garage on an existing homestead, so that will not increase the congestion on the public street. As the other farmsteads in the area have been separated from the tilled acreage, it will not diminish or impair property values in the neighborhood. And the variance would in fact make it easier for public safety officials, fire and police, to gain access to the accessory structures in case of an emergency."

Planning Department Analysis:

Staff concurs with the petitioner.
1. Reference:
   Hearing Date: December 18, 2017
   Applicant's Name: Ambrose & Shirlee Marcotte
   Land Owner's Name: Same
   Legal Counsel: John Denton

2. Location:
   Property Location: South side of 10500 N Road approximately 500' east of 16500 F Road.
   Township: Yellowhead Township.
   Parcel Number: 01-06-12-400-009 (out of)
   166B4 E. 10500 N Road, Grant Park, IL
   Existing Land Use: Farmstead
   Existing Zoning: A1—Agriculture & Farmstead (FE 17-14)
   Applicant Request: Variance—Accessory Structure Setback

3. Dimensions:
   Size of Parcel: 5 acres
   Road Frontage: 254'
   Parcel Depth: 758'
   Parcel History: Divided 2017

4. Existing Land Use Features:
   Public Road: Armour Road & Arthur Birch Drive
   Floodplain: None
   Wetland: None

5. Surrounding Zoning:
   North: A1—Agriculture
   West: A1—Agriculture
   South: A1—Agriculture
   East: A1—Agriculture

6. Surrounding Land Use:
   North: Agriculture
   West: Agriculture
   South: Agriculture
   East: Agriculture

7. Municipal Planning Boundary:
   Nearest Municipality: Grant Park
   Distance: 5 miles

8. Comprehensive Plan Designation:
   Kankakee County: Agricultural Conservation Area
   Municipality: N/A
   Township: N/A

9. Distance to Public Services and Facilities:
   Police Protection: Kankakee County — 22 miles.
   Fire Protection: Yellowhead Township — 5 miles.
   School District: Grant Park — 5 miles.
   Sewer: Grant Park — 5 miles.
   Water: Grant Park — 5 miles.
   Collector Road: County Highway 13 (1/2 mile west)

10. Miscellaneous Information:
    County Board District: One (1) — Mr. Hess.